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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Lisa Snyder,

Plaintiff,

v.

David Starr, et al.,

Defendants.

No. CV-19-05071-PHX-DWL

ORDER

In August 2019, Plaintiff initiated this action by filing a *pro se* complaint (Doc. 1) and an application to proceed *in forma pauperis* (“IFP”) (Doc. 2). The Court granted the IFP application but, after screening the complaint under 28 U.S.C. § 1915(e)(2), dismissed the complaint with leave to amend. (Doc. 7.) Plaintiff then filed a first amended complaint (“FAC”) that names one defendant, Kelly Schaffer (“Schaffer”). (Doc. 8.) Schaffer is identified as having “a permanent residence in Illinois” and being “solely domiciled there for over 55 years.” (*Id.* ¶ 2.)

On February 27, 2020, the Court issued an order concluding the FAC was sufficient to pass the screening stage. (Doc. 9.) Additionally, in light of Plaintiff’s IFP status, the Court ordered that “service of the summons and complaint shall be at government expense on the defendant by the U.S. Marshal.” (*Id.* at 1.) The docket reflects that, in March 2020, Plaintiff provided a service packet to the U.S. Marshal’s Service (“USMS”) pertaining to Schaffer.

Unfortunately, due to the outbreak of the COVID-19 pandemic, the USMS has been

1 unable to serve Schaffer in Illinois. *See generally Tyler v. Maggio*, 2020 WL 3035215, *4
 2 (E.D.N.Y. 2020) (noting that “Administrative Order No. 2020-12 suspends the service of
 3 process by the Marshals during the current national COVID-19 emergency”). When faced
 4 with this situation, some courts have issued a stay until the USMS’s service efforts resume.
 5 *Id.* (“[T]he Court directs the Clerk of Court to stay service by the Marshals Once
 6 service of process is reinstated, the Marshals shall serve the Summons, Complaint, and this
 7 Memorandum and Order on [the defendants].”). Other courts have required the IFP litigant
 8 to complete service. *Zappin v. Cooper*, 2020 WL 1700254, *1 (S.D.N.Y. 2020) (“Because
 9 Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and
 10 the U.S. Marshals Service to effect service. But, in light of the difficulties with service of
 11 process caused by the outbreak of COVID-19 (coronavirus), the Court directs the Clerk of
 12 Court to issue electronic summonses to Plaintiff as to [the defendants]. Plaintiff is directed
 13 to serve the summonses and complaint on each Defendant within 90 days of the issuance
 14 of the summonses.”).

15 Because this case has already been pending for nearly a year, the Court is disinclined
 16 to inject any further delay into the proceedings. Thus, the Court will direct the Clerk of
 17 Court to issue an electronic summons to Plaintiff as to Schaffer. Plaintiff need not,
 18 however, attempt to personally serve Schaffer in Illinois. Instead, Plaintiff must attempt
 19 to serve Schaffer by mailing the summons, as well as a copy of the FAC, to Schaffer’s
 20 known address in Illinois, utilizing postage-prepaid mail that requires a signed and returned
 21 receipt. After the post office returns the signed receipt, Plaintiff must file an affidavit with
 22 the Court verifying (1) that Schaffer is known to be located outside Arizona but within the
 23 United States, (2) that Plaintiff mailed the summons and a copy of the FAC to Schaffer by
 24 postage-prepaid mail that requires a signed and returned receipt, (3) that Plaintiff received
 25 a signed return receipt, and (4) the date of receipt by Schaffer.¹ Plaintiff must attach the

26 ¹ *See* Fed. R. Civ. P. 4(e)(1) (“Unless federal law provides otherwise, an individual
 27 . . . may be served in a judicial district of the United States by . . . following state law for
 28 serving a summons in an action brought in courts of general jurisdiction in the state where
 the district court is located or where service is made.”); Ariz. R. Civ. P. 4.2(c)(1) (“If a
 serving party knows the address of the person to be served and the address is outside
 Arizona but within the United States, the party may serve the person by mailing the

1 signed return receipt to the affidavit.

2 If Plaintiff is unable to serve Schaffer in the method described above, Plaintiff shall
3 file a notice summarizing her efforts.

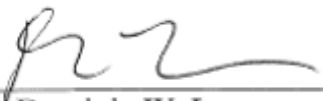
4 Accordingly,

5 **IT IS ORDERED** that the Clerk of Court shall issue an electronic summons to
6 Plaintiff as to Schaffer.

7 **IT IS FURTHER ORDERED** that, by **August 10, 2020**, Plaintiff shall (1) serve
8 Schaffer by mail in accordance with this Order and file the affidavit and signed return
9 receipt discussed above or (2) file a notice summarizing Plaintiff's efforts.

10 **IT IS FURTHER ORDERED** that if Plaintiff does not file the required affidavit
11 or notice by **August 10, 2020**, the Clerk of Court shall terminate this action.

12 Dated this 9th day of July, 2020.

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16 Dominic W. Lanza
17 United States District Judge

18 Cc: USMS
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summons and a copy of the pleading being served to the person at that address by any form
of postage-prepaid mail that requires a signed and returned receipt.”).